

§ 3575.43

public and commercial facilities as defined by the Americans with Disabilities Act (42 U.S.C. 12181—*et seq.*) must comply with that Act. The lender and borrower are responsible for compliance.

§ 3575.43 Other Federal, State, and local requirements.

In addition to the specific requirements of this subpart and beginning on the date of issuance of the Loan Note Guarantee, proposals for facilities financed in whole or in part with a loan guaranteed by the Agency will be coordinated with all appropriate Federal, State, and local agencies. Borrowers and lenders will be required to comply with any Federal, State, or local laws or regulatory commission rules which are in existence and which affect the project including, but not limited to:

- (a) Organization and authority to design, construct, develop, operate, and maintain the proposed facilities;
- (b) Borrowing money, giving security, and raising revenues for repayment;
- (c) Land use zoning;
- (d) Health, safety, and sanitation standards; and
- (e) Protection of the environment and consumer affairs.

§§ 3575.44–3575.46 [Reserved]

§ 3575.47 Economic feasibility requirements.

All projects financed under the provisions of this section must be based on taxes, assessments, revenues, fees, or other sources of revenues in an amount sufficient to provide for facility operation and maintenance, a reasonable reserve, and debt payment. Other sources of revenue or guarantors are particularly important in considering the feasibility of recreation-type loans. The lender is responsible for determining the credit quality and economic feasibility of the proposed loan and must address all elements of the credit quality in a written financial feasibility analysis which includes adequacy of equity, cash flow, security, history, and management capabilities. Financial feasibility reports must take into consideration any interest rate adjustment which may be instituted

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under the terms of the note. The lender's financial credit analysis may also serve as the feasibility analysis when sufficient evidence is included to determine economic feasibility as well as financial viability.

(a) *Financial feasibility.* The borrower, lender, or other qualified entity must prepare the financial feasibility analysis (suggested financial feasibility guidelines are available in any Agency office) in the following instances:

- (1) Facilities primarily used for fire and rescue services;
- (2) Facilities that are not dependent on facility revenues for debt payment;
- (3) Loans of less than \$500,000; or
- (4) Projects in which the borrower has operated similar facilities on a financially successful basis.

(b) *Utility projects.* The borrower's consulting engineer may complete the financial feasibility analysis for utility systems.

(c) *Other community facilities.* Financial feasibility reports for all other facilities must be prepared by a qualified entity not having a direct interest in the management of the facility. The lender may prepare the feasibility study if qualified staff is available.

(d) *Exceptions.* The Agency loan approval official may exempt the lender from the requirement for an independent financial feasibility report (when requested by the borrower and the lender) provided the approval official determines that the financial feasibility analysis prepared by the borrower fairly represents the financial feasibility of the facility and the financial feasibility analysis contains an accurate projection of the usage, revenues, and expenses of the facility.

(e) *Insufficient information.* When the lender or Agency has insufficient information to determine the borrower's repayment ability, an independent feasibility analysis is required.

§ 3575.48 Security.

(a) *Lender responsibility.* The lender is responsible for obtaining and maintaining proper and adequate security to protect the interest of the lender, the holder, and the Government.

(b) *Type of security.* Security must be of such a nature that repayment of the